

Richard P. Sybert, OSB No. 833714
David W. Cramer, OSB No. 113621
Gordon & Rees LLP
121 SW Morrison Street, Suite 1575
Portland, OR 97204
Telephone: (503) 222-1075
Facsimile: (503) 616-3600
Email: rsybert@gordonrees.com
dcramer@gordonrees.com

Attorneys for Defendant
ATHLETIC PROPULSION LABS, LLC,
a California limited liability company

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

ADIDAS AMERICA, INC., a Delaware corporation;
and ADIDAS AG, a foreign entity,

Plaintiffs,

v.

ATHLETIC PROPULSION LABS, LLC, a
California limited liability company,

Defendant.

No. 3:16-cv-00415-HZ

**DECLARATION OF MARK R.
GOLDSTON IN SUPPORT OF
DEFENDANT'S MOTION TO
TRANSFER VENUE**

I, Mark R. Goldston declare as follows:

1. I am over the age of 18 and am competent to testify to the facts stated in this declaration. I am a resident of Los Angeles County, California. I have personal knowledge of the facts set forth in this declaration, and could and would testify competently thereto if called as a witness.

2. I am the General Partner of Athletic Propulsion Labs, LLC ("APL"), a California limited liability company, which was founded in Southern California in 2009. All APL facilities,

including its headquarters and design studio, have been located in Los Angeles County, California since 2009.

3. APL has 10 employees. APL's employees are located at two locations within Los Angeles County. APL's headquarters is located at 9701 Wilshire Boulevard, Suite 1000, Beverly Hills, California 90212, and has 3 employees: the Managing Partner, a graphic designer and a logistics manager. The second location at 1201 W. 5th Street, Suite T-530, Los Angeles, California 90017. This location serves as a design studio and showroom. This facility has 7 employees: the General Partner, the 2 Co-Founders, a design director and 3 graphic designers. These two locations represent all employees in executive, managerial, administrative, development, marketing, and finance positions.

4. All of APL's products, product ideas, and intellectual property, including specifically the accused footwear products and designs at issue in this matter, were and are created and developed in Southern California.

5. All of APL's written materials and documents regarding its products, product development, and trademark information, including such information related to APL's athletic footwear, were created and are located at APL's facilities in Los Angeles, California.

6. All of APL's products are stored in APL's warehouse vendors in Chino Hills, California and Fontana, California where they remain until ready for shipment. All shipments of APL's products are also made from these two California locations to buyers.

7. The vast majority of APL's total sales for Calendar 2015 were made to buyers throughout the United States, with the remainder made to international buyers in Canada, Europe and Asia.

8. A very small percentage of APL's sales are made to buyers in the city of Portland, Oregon or the State of Oregon.

9. APL (1) does not have any office or facilities in Oregon, (2) does not own any real property in Oregon, (3) does not have any bank accounts located in Oregon (4) does not have any management, employees or sales representatives in Oregon. APL does not operate or have a business location in the State of Oregon, nor has it met with prospective retail buyers in the State of Oregon.

10. All documents related to APL's business activities are located in Southern California.

11. APL's website which publishes to the public details regarding the ordering of its products, including athletic footwear, is run and operated from Southern California.

12. APL is a small business. Requiring any of APL's employees to be present for litigation in Portland, Oregon represents a significant reduction in APL's work force. APL is beginning to gain critical recognition in the fashion and athletic markets, and the disruption and inconvenience of litigating in Oregon will be detrimental to APL as a company.

13. APL is, in essence, still a startup company, and its sales are a tiny fraction of Plaintiffs' sales. To date, APL has not yet made a profit. Pending the entry of an appropriate protective order, APL is willing to submit its sales and financial figures to the Court for an *in camera* review.

14. Third party witnesses, including, marketers, advertisers, distributors, retailers, peers, designers, promoters and competitors, including LA Gear, Skechers, K-Swiss, and ASICS, are located in Southern California. Percipient witnesses as to the similar designs that were deemed not to infringe on Plaintiffs' Three-Stripe Mark are the following companies, which are based out of Southern California.

**I DECLARE, UNDER PENALTY OF PERJURY AND THE LAWS OF THE
UNITED STATES OF AMERICA, THAT THE FOREGOING IS TRUE AND
CORRECT.**

DATED: May 4, 2016.

/s/ Mark R. Goldston

Mark R. Goldston, General Partner
Athletic Propulsion Labs, LLC